



1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 Department for Environmental Protection

3 Division of Waste Management

4 (Amendment)

5 401 KAR 42:200. Underground storage tank system owner registration fees.

6 RELATES TO: KRS 224.10, 224.60

7 STATUTORY AUTHORITY: KRS 224.10-100, 224.60-100, 224.60-105

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-150 states that the
9 cabinet shall levy and collect an annual fee of thirty (30) dollars per underground storage tank
10 (UST) system from owners or operators of UST systems [~~containing regulated substances~~] for
11 the purpose of funding the administration of the underground storage tank program.
12 [~~Underground Storage Tank Branch of the Division of Waste Management.~~] This administrative
13 regulation establishes provisions for the payment of an annual registration fee.

14 Section 1. Applicability. This administrative regulation shall apply to all owners and
15 operators of UST systems, [~~used to store regulated substances.~~]

16 Section 2. Annual Registration Fee. (1) The owner or operator shall pay a thirty (30)
17 dollar annual registration fee for each UST system that is in the ground, and not permanently
18 closed in accordance with 401 KAR 42:070, on July 1 of a year (July 1 through June 30).
19 Payment shall be submitted to the Underground Storage Tank Branch of the Division of Waste
20 Management. Checks shall be made payable to the Kentucky State Treasurer and be submitted

1 within thirty (30) days after receipt of an invoice from the cabinet specifying the required
2 payment.

3 Section 3 [2]. New Registrations. [~~Notifications. (1) The current owner of a UST system~~
4 ~~shall notify the cabinet of the existence of the UST system by completing a Notification of~~
5 ~~Underground Storage Tank System Form (DEP Form 5024)] in accordance with 401 KAR~~
6 ~~42:020. This form (incorporated by reference in 401 KAR 42:020) shall be submitted to the~~
7 ~~Division of Waste Management, Underground Storage Tank Branch, 14 Reilly Road, Frankfort,~~
8 ~~Kentucky 40601 no later than thirty (30) days after installation of the UST system. Upon~~
9 ~~acceptance of the completed form, the cabinet shall assign a facility identification number and~~
10 ~~shall notify the owner, in writing, of the identification number.~~

11 (2)} A fee of thirty (30) dollars per UST system, payable to the Kentucky State Treasurer,
12 shall be submitted to the Underground Storage Tank Branch along with the initial "UST Facility
13 Registration Form", DEP 7112 (January 2006), as required by 401 KAR 42:020. [~~Notification of~~
14 ~~Underground Storage Tank System Form~~].

15 Section 4. [3.] Amended Registrations. [~~Notifications. (1) The owner or operator shall~~
16 ~~submit an amended Notification of Underground Storage Tank System Form, that specifically~~
17 ~~indicates all amendments, within thirty (30) days of any change to the following items:~~

18 (a) ~~Ownership of the UST system;~~

19 (b) ~~Description of the UST System; or~~

20 (c) ~~Financial responsibility.~~

21 (2) [~~If amending the Notification of Underground Storage Tank System Form for an~~
22 ~~existing UST system, no fee shall be required.~~

1 (3)] If [amending] the "UST Facility Registration Form", DEP 7112 (January 2006) is
2 amended in accordance with 401 KAR 42:020, [~~Notification of Underground Storage Tank~~
3 ~~System Form~~] to include one (1) or more additional UST systems, the amended form shall be
4 accompanied by payment of any annual registration fees that may be due, including any
5 outstanding fees for pre-existing UST systems. Fees due shall be calculated at a rate of thirty
6 (30) dollars for each additional UST system for each year (July 1 through June 30) the UST
7 system was in the ground. The fee for any year (July 1 through June 30) shall be due if the UST
8 system was in the ground on July 1 of that year. Fees shall not be due for years prior to the one
9 (1) beginning July 1, 1990.

10 ~~(3) [(4)] If an unregistered UST system is discovered during permanent closure activities,~~
11 ~~an amended Notification of Underground Storage Tank System Form shall be submitted to the~~
12 ~~Underground Storage Tank Branch of the Division of Waste Management to register the newly~~
13 ~~discovered UST system. If an unregistered UST system is discovered during permanent closure~~
14 activities pursuant to 401 KAR 42:070, a [A] one (1) time registration fee of thirty (30) dollars
15 shall be submitted for each discovered UST system within thirty (30) days after discovery.
16 Registration fees for previous years are not required.

17 Section 5 [4]. Changes of Ownership. ~~(1) If ownership of a UST system changes, the new~~
18 ~~owner shall complete and submit an amended Notification of Underground Storage Tank System~~
19 ~~Form to indicate the new ownership. The form shall include the previously assigned facility~~
20 ~~identification number and shall be submitted to the Underground Storage Tank Branch within~~
21 ~~thirty (30) days after the transaction.~~

22 ~~(2) If an owner sells a UST system, the seller shall advise the new owner of the obligation~~
23 ~~to submit an amended Notification of Underground Storage Tank System Form to the~~

1 ~~Underground Storage Tank Branch that indicates the change in ownership. Also, the seller shall~~
2 ~~submit, to the Underground Storage Tank Branch within thirty (30) days after the transaction, a~~
3 ~~copy of the properly executed deed or other mutually executed legal document supporting the~~
4 ~~sale of the UST system, along with a letter indicating the facility name as registered with the~~
5 ~~cabinet, the facility location, and the facility identification number.~~

6 ~~(3) If ownership of a UST system changes, any[Any] unpaid registration fees shall be the~~
7 ~~responsibility of the new owner.~~

8 ~~[Section 5. Annual Registration Fee and Certificate of Notification. (1) The owner or~~
9 ~~operator shall pay a thirty (30) dollar annual registration fee for each UST system is in the~~
10 ~~ground on July 1 of a year (July 1 through June 30). This fee shall not be required for UST~~
11 ~~systems that have been permanently closed in accordance with 401 KAR 42:070 or 401 KAR~~
12 ~~42:071. Payment shall be submitted to the Underground Storage Tank Branch of the Division of~~
13 ~~Waste Management. (payable to the Kentucky State Treasurer) within thirty (30) days after~~
14 ~~receipt of an invoice from the cabinet specifying the required payment.~~

15 ~~(2) Annual registration fees submitted beginning with the July 1, 1993 year will be~~
16 ~~acknowledged with a Certificate of Notification (DEP Form 6052). The certificate shall be~~
17 ~~posted in a conspicuous location at the facility, and it shall expire one (1) year from the date of~~
18 ~~issuance.]~~

401 KAR 42:200 is approved for filing.

4-12-2006

Date

John W. Clay

John W. Clay, Deputy Secretary
Environmental and Public Protection Cabinet

for

LaJuana S. Wilcher, Secretary
Environmental and Public Protection Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2006 at 10:00 AM (Eastern Time) at the Capital Plaza Tower Auditorium, 500 Mero Street, Room 228, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by May 16, 2006, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2006. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Bruce Scott, P. E., Director
Division of Waste Management
14 Reilly Road
Frankfort, KY 40601
Telephone: (502) 564-6716 Fax (502) 564-4049
Email: Bruce.Scott@ky.gov

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation #: 401 KAR 42:200

Contact person: Bruce Scott, Director

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation establishes the provisions for the owners or operators of UST systems to pay an annual fee of \$30.00 per UST system.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the administrative fee described in KRS 224.60-150.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms by establishing the administrative fee described in KRS 224.60-150.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists by establishing the administrative fee described in KRS 224.60-150.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation: This amendment serves to update the title of the Registration form and the agency's address.
- (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the title of the Registration form and the agency's address.
- (c) How the amendment conforms to the context of the authorizing statutes: This amendment conforms by establishing the provisions for the UST program's administrative fee.
- (d) How the amendment will assist in the effective administration of the statutes: This amendment assists by establishing the provisions for the UST program's administrative fee.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect those individuals that own and operate underground storage tanks in the Commonwealth of Kentucky, approximately 13,400. UST contractors that operate in the Commonwealth of Kentucky will also be affected by this regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: This amendment only updates the incorporated materials for UST systems.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

- (a) Initially: There will be no costs associated with implementation of this administrative regulation.
 - (b) On a continuing basis: There will be no additional costs associated with the implementation of this administrative regulation.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation and enforcement of this administrative regulation is funded through two Federal grants and the restricted fund receipts described in KRS 224.60-150.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There is no need for an increase in funding or fees to implement this amendment.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees.
- (9) TIERING: Is tiering applied? (Explain why tiering was or was not used.)
No tiering is applied. This administrative regulation applies to all owner and operators of USTs.
To apply tiering to the amendment would unduly regulate some entities with USTs while not regulating others.

FISCAL NOTE ON LOCAL GOVERNMENT

Administrative Regulation #: 401 KAR 42:200

Contact person: Bruce Scott, Director

Phone Number: (502) 564-6716

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes X No If yes, complete question 2 to 4. If no, you do not need to file this form.

2. State what unit, part, or division of local government this administrative regulation will affect.

This amendment may affect local governments that own or operate USTs.

3. State, in detail, the aspect or service of local government to which this administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation.

This amendment relates to the agents of local government that own or operate USTs. KRS 224.60-105 authorizes the promulgation of this administrative regulation.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No effect.

Expenditures (+/-): No effect.

Other Explanation: The cabinet expects no significant impacts from this administrative regulation.